



# CITY OF LODI

## COUNCIL COMMUNICATION

AGENDA TITLE: Hold Harmless Agreement for Permanent Encroachment Permit for  
1150 East Thurman Street

MEETING DATE: October 16, 1996

PREPARED BY: Public Works Director

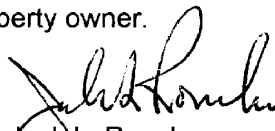
RECOMMENDED ACTION: That the City Council direct the City Manager and City Clerk to execute a Hold Harmless Agreement on behalf of the City to allow issuance of a permanent encroachment permit for planned improvements at the subject site.

BACKGROUND INFORMATION: Sweetener Products Company, the owner of the subject site, has requested a permanent encroachment permit to allow the construction of an underground conveyor system and railroad spur which will encroach on an existing forty-foot public utility easement (PUE) along the east property line of its parcel. The location of these improvements is shown on Exhibit A. The railroad spur will allow delivery of bulk product to the Sweetener Products facility and the conveyor system will be used to transfer the product from the rail cars to the processing plant. The conveyor system will be approximately four feet deep.

There is a public storm drain trunk line located within the PUE. The depth to the top of pipe is about twelve feet. Due to the nature of the proposed improvements and the depth of the storm drain pipe, Public Works Department staff felt that the encroachment request was reasonable. Staff required that the encroachment permit be issued under the terms of a Hold Harmless Agreement to be executed by the owner and the City and recorded in the San Joaquin County Recorder's Office. A copy of the Agreement, signed by the owner, is attached as Exhibit B.

Staff recommends that the Council direct the City Manager and City Clerk to execute the Agreement on behalf of the City to allow issuance of the permanent encroachment permit.

FUNDING: Recording fees to be paid by property owner.

  
Jack L. Ronsko  
Public Works Director

Prepared by Sharon A. Welch, Associate Civil Engineer  
JLR/SAW/lm

Attachments

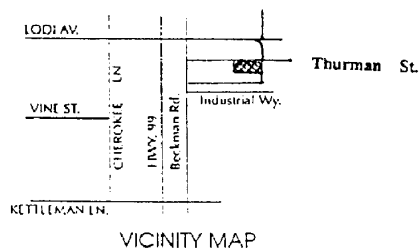
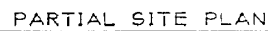
cc: City Attorney  
Street Superintendent  
Associate Civil Engineer  
Sweetener Products Company  
James C. Dorr, AIA

APPROVED: \_\_\_\_\_

  
H. Dixon Flynn -- City Manager

## PUBLIC WORKS DEPARTMENT

1150 E. THURMAN STREET



WHEN RECORDED, RETURN TO:

City Clerk  
City of Lodi  
221 West Pine Street  
Lodi, CA 95240

HOLD HARMLESS AGREEMENT

THIS AGREEMENT is made and entered into by and between the CITY OF LODI, hereinafter referred to as "City" and EDNA H. PAGEL, INC. dba SWEETENER PRODUCTS COMPANY, hereinafter referred to as "Owner".

RECITALS:

Owner is the owner of that certain real property situated in the City of Lodi, County of San Joaquin, known as 1150 E. Thurman Street APN 049-070-88 and described as follows:

Parcel 2 as shown on Parcel Map recorded in Book 20 of Parcel Maps, at Page 62, San Joaquin County Records.

Construction permit applications (#10745 and 10746) have been submitted for construction of a new industrial facility for Sweetner Products Company on the subject parcel. Owner has requested that a permanent encroachment permit be issued to allow construction of an underground conveyor system and a private railroad spur which encroach on an existing 40-foot public utility easement along the east line of Parcel 2 shown on the parcel map filed for record on January 3, 1996, in Book 20 of Parcel Maps at Page 62, San Joaquin County Records.

NOW THEREFORE, in exchange for the issuance of a permanent encroachment permit to allow the construction of an underground conveyor system and a private railroad spur, Owners do hereby agree as follows:

1. Owner agrees to save, indemnify and hold harmless the City of Lodi, its' officers, agents and employees, from liability of any nature whatsoever arising from Owner's use or occupation of the Public Utility Easement referenced above.
2. Owner further agrees to indemnify, save and hold harmless the City of Lodi, its' officers, agents and employees from damage of any sort occasioned by the City's necessary entry upon or excavation of the public facilities located in the Public Utility Easement referenced above for the purpose of emergency work on those facilities.
3. Owner specifically waives consequential damages, damages for inverse condemnation or for any reduction to the value of the subject property based on the existence of the permanent encroachment permit, waiver, or hold harmless executed in connection therewith.
4. Owner further agrees, that for non-emergency work in the Public Utility Easement, Owner at his sole expense, will give prompt access to the City of Lodi for the purpose of Non-emergency work on the utilities thereon. Further, if required, owner will move at owner's cost and expense the necessary structures required to permit the City of Lodi to perform their non-emergency work.

## Exhibit B

5. This agreement shall run with the land and be binding on the Owner, its heirs, successors or assigns.
6. The terms of the Hold Harmless Agreement are acceptable to the City of Lodi.
7. A copy of the Agreement shall be recorded in the office of the San Joaquin County Recorder, P. O. Box 1968, Stockton, California 95201-1968.

IN WITNESS WHEREOF, the parties hereto have set their hands the day, month and year appearing opposite their names.

CITY OF LODI, a Municipal Corporation

Dated: \_\_\_\_\_ 1996

By: \_\_\_\_\_  
H. Dixon Flynn, City Manager

Attest: \_\_\_\_\_  
Jennifer M. Perrin, City Clerk

EDNA H. PAGEL, INC.  
dba SWEETENER PRODUCTS COMPANY

Dated: 8/27/ 1996

Harold P. Long  
HAROLD P. LONG, PRESIDENT

ATTEST [Signature]  
JAMES J. BOLTINGHOUSE

Approved as to form: Randall A. Hays  
Randall A. Hays  
City Attorney

Dated: 10-7- 1996

## Exhibit B

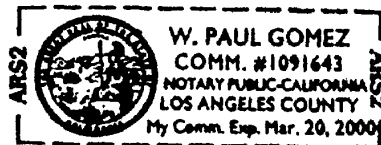
State of California

County of Los Angeles

On, **August 27, 1996**, before me, W. Paul Gomez, Notary Public, personally appeared **Harold P. Long, President of Sweetener Products, Inc.** personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature



Attached to:

Hold Harmless Agreement  
between the City of Lodi, Ca.  
and Sweetener Products, Inc.

CITY COUNCIL

DAVID P. WARNER, Mayor  
PHILLIP A. PENNINO  
Mayor Pro Tempore  
RAY G. DAVENPORT  
STEPHEN J. MANN  
JACK A. SIEGLOCK

# CITY OF LODI

CITY HALL, 221 WEST PINE STREET  
P.O. BOX 3006  
LODI, CALIFORNIA 95241-1910  
(209) 333-6706  
FAX (209) 333-6710

H. DIXON FLYNN  
City Manager  
JENNIFER M. PERRIN  
City Clerk  
RANDALL A. HAYS  
City Attorney

October 10, 1996

Sweetener Products Company  
P. O. Box 58426  
Vernon, CA 90058

James C. Dorr, AIA  
615 Las Tunas, Suite D  
Arcadia, CA 91007

SUBJECT: Hold Harmless Agreement for Permanent Encroachment Permit  
for 1150 East Thurman Street

Enclosed is a copy of background information on an item on the City Council agenda of Wednesday, October 16, 1996, at 7 p.m. The meeting will be held in the City Council Chamber, Carnegie Forum, 305 West Pine Street.

This item is on the consent calendar and is usually not discussed unless a Council Member requests discussion. The public is given an opportunity to address items on the consent calendar at the appropriate time.

If you wish to write to the City Council, please address your letter to City Council, City of Lodi, P. O. Box 3006, Lodi, California, 95241-1910. Be sure to allow time for the mail. Or, you may hand-deliver the letter to the City Clerk at 221 West Pine Street.

If you wish to address the Council at the Council meeting, be sure to fill out a speaker's card (available at the Carnegie Forum immediately prior to the start of the meeting) and give it to the City Clerk. If you have any questions about communicating with the Council, please contact Jennifer Perrin, City Clerk, at (209) 333-6702.

If you have any questions about the item itself, please call Sharon Welch at (209) 333-6800, ext. 659.



Jack L. Ronsko  
Public Works Director

JLR/lm

Enclosure

cc: City Clerk